

## Message Text

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ACTION EB-07

INFO OCT-01 NEA-10 ISO-00 INRE-00 SP-02 USIA-06 AID-05  
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FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC IMMEDIATE 9943

INFO USDOC WASHDC

AMCONSUL BOMBAY

AMCONSUL CALCUTTA

AMCONSUL MADRAS

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E.O. 11652:N/A

TAGS: ETRD, EINV, USINJC, IN

SUBJ: UNINJC: PLANNING FOR ECONOMIC-COMMERCIAL SUBCOMMISSION

REF: NEW DELHI 17600

1. THE FOLLOWING BUSINESS PROBLEMS MIGHT BE RAISED AT THE NEXT SUBCOMMISSION MEETING. IN ADDITION, THE U.S. SECTION OF THE BUSINESS COUNCIL WILL BE DOING A STUDY ON THE INCENTIVES AND DISINCENTIVES TO INVESTMENT AND LICENSING IN INDIA WHICH SHOULD SURFACE ADDITIONAL PROBLEMS. OUR UNDERSTANDING IS THAT YOU WILL BE RECEIVING RECOMMENDATIONS OF ISSUES TO RAISE AT THE SUBCOMMISSION MEETING FROM THEM.

2. COMPANY REMITTANCES.

THERE HAS BEEN SOME PROGRESS ON THIS ISSUE. THE GOI HAS NOW APPROVED REMITTANCES FOR COLGATE FOR ONE HALF OF 1974 AND ALL OF 1975. THE 1972 AND 1973 REMITTANCES REMAIN TO BE CLEARED. SINGER HAS NOW RECEIVED REMITTANCE FOR 1972. IT HAS RECEIVED APPROVAL IN PRINCIPLE FOR 1973, 1974 AND 1975 DIVIDENDS BUT REMIT-

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TANCES HAVE NOT ACTUALLY BEEN MADE AND THE COMPANY

REPRESENTATIVE THINKS HE HAS A LONG WAY TO GO. WE ARE OBTAINING THE CURRENT STATUS OF GENERAL ELECTRIC REMITTANCES.

### 3. FERA

THERE HAS BEEN SOME PROGRESS TOWARD A FLEXIBLE INTERPRETATION OF THE GUIDELINES. THE INSTITUTION OF THE 51 PERCENT STEP IS AN EXAMPLE. THE ONE YEAR TIME PERIOD FOR BILUTION IS TOO SHORT, HOWEVER, AND COMPAINES ARE ALSO BEING REQUIRED TO BUILD EXPORT SALES IN TOO SHORT A PERIOD. THREE TO FIVE YEARS WOULD SEEM MORE REASONABLE IN BOTH INSTANCES, AND WE SHOULD URGE THIS ON THE GOI. WITH RESPECT TO THE EQUITY ALLOWED A FOREIGN FIRM, IDEALLY COMPANIES SHOULD BE ALLOWED TO NEGOTIATE THEIR EQUITY POSITION AT ANY POINT BETWEEN 40 AND 74 0/0, DEPENDING UPON THE LEVEL AND MIX OF CORE SECTOR, HIGH TECHNOLOGY AND EXPORT PRODUCTION. WE HAVE BEEN URGING THE FERA COMMITTEE TO GIVE A FAIR HEARING TO FOREIGN FIRMS, AND WE THINK IT REASONABLE THAT A REPRESENTATIVE OF THE FOREIGN FIRM SHOULD BE ALLOWED TO ACTUALLY APPEAR IN A FERA COMMITTEE MEETING TO STATE HIS CASE AND DEFEND HIS POSITION.

### 5. IMPORT LICENSES

A NEW PROBLEM HAS ARISEN SINCE THE LAST MEETING. THE MINISTRY OF INDUSTRY APPEARS TO BE USING THE REGULATION OF IMPORTS AS LEVERAGE TO ACHIEVE OTHER ENDS. GOODYEAR AND FIRESTONE ARE BEING DENIED IMPORT LICENSES FOR RAW MATERIALS FOR THE PRODUCTION OF TIRES UNTIL EXPORT QUOTAS ARE ACHIEVED. THE COMPAINES VIEW THE EXPORT QUOTAS AS EXCESSIVE, ALTHOUGH THEY ARE MAKING PROGRESS TOWARD ACHIEVING THEM AND CONSIDER THE USE OF THE IMPORT MECHANISM AS UNFAIR. SIMILARY, IBM IS BEING DENIED IMPORT LICENSES FOR EQUIPMENT UNTIL ITS CASE UNDER THE FERA IS RESOLVED. WE RECALL IN THE LAST SUB-COMMISSION MEETING THAT THE LEADER OF THE GOI DELEGATION STATED THAT IT WAS NOT THE POLICY OF THE GOVERNMENT TO USE ENFORCEMENT MEASURES IN ONE AREA TO ACHIEVE AND END IN ANOTHER. HE WAS TALKING ABOUT RBI DENIALS OF REMITTANCES, BUT WE THINK IT ALSO APPLIES HERE. WE NOTE LIMITED OFFICIAL USE

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ALSO THAT COCA COLA HAD A SIMILAR PROBLEM, BUT BECAUSE IT HAS CONNECTIONS AT A HIGH POLITICAL LEVEL IT WAS ABLE TO OBTAIN RELIEF. THE MINISTRY OF INDUSTRY WAS TOLD THAT IT SHOULD NOT DENY COCA COLA'S IMPORT LICENSES WHILE THE COMPANY'S FERA CASE REMAINED TO BE NEGOTIATED. WE RECOMMEND THAT THIS ISSUE BE RAISED, BUT PLEASE DO NOT MENTION ANY OF THE COMPANIES BY NAME.

6. AS WE REPORTED, THE MINISTRY OF INDUSTRY ISSUED A DIRECTIVE THAT WOULD DENY A FOREIGN OWNED COMPANY FROM REMITTING PROFITS DERIVED FROM EXCESS PRODUCTION. WE UNDERSTAND INFORMALLY THAT THE RBI IS HOLDING FOR APPROVAL THE REMITTANCES OF TWO COMPANIES BECAUSE OF THIS DIRECTIVE. THE U.S. BUSINESS COMMUNITY NATURALLY CONSIDERS THIS AS ANOTHER HARASSMENT TO THE FOREIGN INVESTOR. WE WILL ATTEMPT TO CONFIRM WITH THE RBI THAT IT IS IN FACT HOLDING UP THESE REMITTANCES.

7. VISAS FOR TECHNICIANS REMAIN A PROBLEM. IF NO PROVISION FOR GRANTING OF VISAS FOR TECHNICIANS TO WORK IN INDIA IS MADE IN AN ORIGINAL AGREEMENT, THE APPLICATION IS CONSIDERABLY DELAYED. REPRESENTATIVES OF LOCAL AMERICAN COMPANIES AS WELL AS BANKS TELL US THAT THEY CONTINUE TO SPEND AN ABNORMAL AMOUNT OF TIME OBTAINING PERMISSION FOR EXPATRIATES TO ENTER THE COUNTRY.

8. TAXATION ON FEES FOR TECHNICAL SERVICES AND ROYALTIES. THROUGH THE FINANCE ACT OF 1962 TECHNICAL SERVICE WERE TAXED AT 40 0/0 AND ROYALTIES AT 20 0/0. THE TAX ON TECHNICAL SERVICES IS LEVIED EVEN IF THE TECHNICAL SERVICES ARE RENDERED ABROAD BY A NON-RESIDENT CORPORATION. THESE RATES ARE HIGH AND ARE HARDLY CONDUCIVE TO PROMOTING THE TRANSFER OF TECHNOLOGY. THE SUPPLIER WILL ONLY ADD THEM TO THE FEE CHARGED THE INDIA FIRM WHICH ALSO INCREASES THE FOREIGN EXCHANGE COST OF THE GIVEN TRANSACTION.  
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